

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 3	CCRB Case #: 201100322	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 01/03/2011 1:12 AM	Location of Incident: § 87(2)(b)	Precinct: 01	18 Mo. SOL 7/3/2012	EO SOL 7/3/2012	
Date/Time CV Reported Mon, 01/03/2011 7:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/06/2011 9:27 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Max Rodriguez	13322	941499	001 PCT
2. POM Alexis Rodriguez	06766	947411	001 PCT
3. SGT Joseph Taylor	04034	924542	001 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Theodore Plevritis	00905	942368	001 PCT
2. POM Ryan Logan	15993	942070	001 PCT
3. POM Peter Wong	18848	942722	001 PCT
4. POF Nicole Detres	13713	943162	001 PCT
5. POM Enoch Thomas	15108	942608	001 PCT
6. POM Shawn Ziel	19576	929400	001 PCT
7. POM Albert Ng	15303	933092	001 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Max Rodriguez	Force: PO Max Rodriguez used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Alexis Rodriguez	Force: PO Alexis Rodriguez used physical force against § 87(2)(b)	§ 87(2)(b)
C.SGT Joseph Taylor	Force: Sgt. Joseph Taylor used physical force against § 87(2)(b)	§ 87(2)(b)
D.SGT Joseph Taylor	Force: Sgt. Joseph Taylor used a taser against § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 3, 2011, the following complaint was filed by Sgt. Brian Bustrin of the 1st Precinct with the Internal Affairs Bureau (IAB), IAB log # 11-00150, regarding an incident involving § 87(2)(b) which occurred on the same day (encl. C 1). This case was referred to the Civilian Complaint Review Board (CCRB) and was received on January 6, 2011 (encl. C 2-3).

On January 3, 2011, at approximately 1:00 a.m., officers from the 1st Precinct entered § 87(2)(b) in Manhattan to arrest § 87(2)(b) for the assault of his wife, § 87(2)(b). The following allegations resulted from the officers' actions:

Allegation A) PO Max Rodriguez used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation B) PO Alexis Rodriguez used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation C) Force: Sgt. Joseph Taylor used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation D) Force: Sgt. Joseph Taylor used a taser against § 87(2)(b)

§ 87(2)(g)

Due to the resignation of Investigator John Cody, this case was reassigned to Investigator Eric Black on July 21, 2011.

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b)

Arrest Photograph

§ 87(2)(b) was photographed by the NYPD on January 3, 2011 (encl. C 6). § 87(2)(b) does not appear to have any visible facial injuries.

Statements to Medical Personnel

§ 87(2)(b) told medical personnel at § 87(2)(b) on § 87(2)(b) that he was drunk and upset. § 87(2)(b) stated that he was upset about being arrested the night before and stated that much of his "emotional dysregulation" had to do with him being intoxicated with alcohol (encl. E 15). On § 87(2)(b), § 87(2)(b) told medical personnel at § 87(2)(b) that he is a § 87(2)(b) and that

his arm was broken when he was arrested. § 87(2)(b) also noted that he was thrown into a glass table, resulting in a laceration to his elbow (encl. E 23).

Notice of Claim

On January 13, 2011, § 87(2)(b) filed a Notice of Claim against the City of New York for an unspecified sum of money. The claim indicates that § 87(2)(b) sustained physical and psychological injuries as a result of the incident, but does not provide any specific details of the incident (encl. G 1-3).

CCRB Statement

On February 9, 2011, § 87(2)(b) was interviewed by the CCRB at § 87(2)(b) (Enc. C 4-5). On January 3, 2011, § 87(2)(b) was at his home, located at § 87(2)(b) in Manhattan, when he saw flashing lights from his window and noticed that there were officers outside of his residence. § 87(2)(b) was drinking alcohol at his residence and was alone. § 87(2)(b) drank only about two unspecified drinks. § 87(2)(b)'s wife, § 87(2)(b) was not home at the time. On that incident date, it was § 87(2)(b)'s and § 87(2)(b)'s wedding anniversary and she was out at a nearby bar. § 87(2)(b) did not assault § 87(2)(b) or have a verbal argument with her on that date.

§ 87(2)(b) went to the window and there were about four to six uniformed officers standing outside, yelling up to him to open his door. § 87(2)(b) did not know exactly which officer he was talking with. § 87(2)(b) asked who had called the police, but the officers did not respond. § 87(2)(b) had no idea why officers were outside his home, and did not recall if they asked him to come outside. § 87(2)(b) asked the officers what he had done and they just kept demanding he open the door. § 87(2)(b) said he did not “fucking” do anything.

§ 87(2)(b) ignored the officers and then walked downstairs to the first floor of his brownstone. The officers then kicked in the door and entered the residence. § 87(2)(b) described the first officer who entered as a 6'1", dark skinned Hispanic male with a bald head and a mustache. This officer had the name “Rodriguez” on his nameplate and has been identified by the investigation as PO Max Rodriguez of the 1st Precinct. PO Max Rodriguez rushed towards § 87(2)(b) grabbed his right arm, and twisted it behind § 87(2)(b)'s back which produced a cracking sound in § 87(2)(b)'s wrist.

A second officer, who § 87(2)(b) described as a 5'10", light-skinned Hispanic male with short black hair tackled § 87(2)(b) causing him to fall into a glass coffee table. This officer also had the name “Rodriguez” on his name plate and has been identified by the investigation as PO Alexis Rodriguez of the 1st Precinct. § 87(2)(b) received a laceration to his left elbow which required several stitches to mend.

A third police officer, who was identified by the investigation as Sgt. Joseph Taylor of the 1st Precinct, entered the residence. Sgt. Taylor was described as a heavy set, white male police officer in his fifties with salt and pepper colored hair. Sgt. Taylor proceeded to kick § 87(2)(b) in his ribcage, breaking three to four ribs. For an unknown reason, § 87(2)(b) was stripped of all his clothing, handcuffed, and placed inside a restraining bag. § 87(2)(b) stated that at no time did he resist the officers, stating that the entire incident occurred in a matter of seconds and that he had no time to resist. § 87(2)(b) did not recall if he was tasered during the incident.

§ 87(2)(b) was taken to an ambulance which was outside of his residence and taken to § 87(2)(b). Inside the ambulance, an EMT, proceeded to kick § 87(2)(b) in the head for the entire ride to § 87(2)(b). § 87(2)(b) was treated for his injuries at § 87(2)(b) and was not submitted for a psychiatric evaluation.

Witness: § 87(2)(b)

Statement to IAB

On January 3, 2011, § 87(2)(b) was interviewed by IAB (encl. F 1-2). § 87(2)(b) stated that she was the wife of § 87(2)(b) and that on the incident date § 87(2)(b) was intoxicated and began to destroy their apartment and assault her. § 87(2)(b) fled the apartment and called 911.

Phone Statement

On March 29, 2011, § 87(2)(b) provided a phone statement regarding this incident (Enc. C 8). § 87(2)(b) stated that in the days leading up to the incident, § 87(2)(b) had been heavily drinking and beating her. When § 87(2)(b) drinks, he blacks out and does not remember what occurs. § 87(2)(b) did not call the police because she did not want § 87(2)(b) to be arrested.

On the incident date, § 87(2)(b) had stolen § 87(2)(b)'s purse and locked himself inside the apartment with it. § 87(2)(b) called the police. When the officers arrived, § 87(2)(b) told them that she had been beaten in the days before and they were able to see bruises to her body. § 87(2)(b) was inside of a building lobby and was unable to see what was happening outside, but an officer told her that § 87(2)(b) was screaming outside a window at the officers below and would not come out of his residence. An officer told her that they were going to move their police vehicle to make § 87(2)(b) think he had left. § 87(2)(b) did not think that § 87(2)(b) would fall for the officers' plan, but shortly after the officers' moved their vehicle, § 87(2)(b) came outside the officers pushed their way into the home and arrested § 87(2)(b). § 87(2)(b) did not witness the interaction between § 87(2)(b) and the officers inside of the residence.

Witness: § 87(2)(b)

Statement to IAB

§ 87(2)(b) was interviewed by IAB on January 3, 2011 (encl. F 1-2). § 87(2)(b) stated that he is the security guard at the apartment complex where § 87(2)(b) resides. On the incident date, § 87(2)(b) was extremely intoxicated and belligerent. § 87(2)(b) ran out of the apartment and sat with § 87(2)(b). § 87(2)(b) came out, spit on him, and exposed his penis to him. When police responded, § 87(2)(b) was belligerent and barricaded himself inside of his apartment.

NYPD Statements:

Subject Officer: SGT. JOSEPH TAYLOR

- Sgt. Taylor is a § 87(2)(b).
- On January 3, 2011, Sgt. Taylor was working in uniform from 11:05pm until 8:02am with Officer Theodore Plevritis as patrol supervisor in a marked vehicle.

Memobook

Sgt. Taylor's memobook stated, "0033: 1054 EDP § 87(2)(b) – I arrived on the scene and informed by victim § 87(2)(b) that her husband § 87(2)(b) had assaulted her and was threatening her at the time. Visible injuries could be seen on her face, specifically two black eyes and a

cut on her left cheek. She informed us that he had been acting violent for the previous few days and had been drinking today. C/v was located in the lobby of § 87(2)(b). At this time her husband was inside his residence at § 87(2)(b) which had a separate outside entrance. The building was two stories and § 87(2)(b) was at the second floor window yelling obscenities at responding officers and acting in an erratic and irrational behavior. We tried to start a dialogue with him in an attempt to get him to come out of his residence. It was clear that the attempts were not working so I commenced barricaded EDP procedures and notified the Duty Captain George, 17 PCT, Captain George instructed me to stand by for his arrival. While awaiting the captain, I had the RMPs removed to around the corner and out of sight of the EDP and I had the officers and myself keep out of sight in the lobby of the building next door. It was my belief that the EDP may exit the building if he had thought we left the scene. Approx 8 to 10 minutes later, the EDP opened his door and exited into the street. At this time, responding officers tried to take him into custody. The EDP was non-compliant and violent. A struggle ensued which took us into his apartment. The officers used verbal commands which did not work and batons while trying to get him handcuffed. The EDP was still heavily resisting and I deployed Taser in dry stun mode in an attempt (no darts were discharged). The dry stun of the taser proved to be ineffective as well. Eventually we were able to get him handcuffed. During the whole process of the struggle, the EDP and officers fell into a glass table which shattered and fell over. EDP sustained cuts to arm from the glass. The table also fell on my left leg resulting in bruising and open cut to shin. Once EDP was in custody, ESU was called to bag him for transport to hospital. He was transported to § 87(2)(b) by EMS w/ PO Peter Wong and PO Ryan Logan escorting.” The memo-book has further details about § 87(2)(b)’s psychiatric evaluation at § 87(2)(b) and treatment of Sgt. Taylor’s laceration (encl. D 1-4).

UF-49

Sgt. Taylor prepared a UF-49 for this incident (encl. D 8). The UF-49 is consistent with his memobook entry.

Non-Lethal Restraining Device Report

The report notes that a taser was used in stun mode on § 87(2)(b)’s back as he was violently resisting. The device was ineffective in subduing § 87(2)(b) (encl. D 5-7).

CCRB Statement

On May 4, 2011, Sgt. Joseph Taylor was interviewed at the CCRB (encl. D 9-10). Sgt. Taylor stated that upon arriving on scene, § 87(2)(b) was yelling profanities outside his window at the officers, saying comments such as, “Fuck you, fuck your mother.” Sgt. Taylor said there were a number of officers present, but besides Officer Alex Rodriguez and the officers he listed in his memobook, he could not recall who else was present. He did recall that a few other officers were present and that he wanted all the officers he could get on scene because § 87(2)(b) was such a big individual, approximately 6’5” and weighing 300 pounds.

Sgt. Taylor stated that he had run into § 87(2)(b) on New Years Day, a day prior to this incident, and saw him drinking alcohol outside. When Sgt. Taylor went to approach and issue him a summons, § 87(2)(b) ran into his apartment and they were unable to serve him one. They noticed when they approached the location where they first observed him, he was outside again, but once again ran inside the second time they approached. Sgt. Taylor believed that if they pretended to leave the scene that § 87(2)(b) would come outside again. Sgt. Taylor was inside the lobby of the building next door when

other officers on scene observed § 87(2)(b) walk outside. Those officers rushed § 87(2)(b) but Sgt. Taylor did not see the initial contact, officers only told him about it later.

A struggle ensued and the struggle ended up moving into § 87(2)(b)'s home. From the point the officers made contact with § 87(2)(b) to the point Sgt. Taylor went into the home was seconds. When Sgt. Taylor entered § 87(2)(b)'s home, the officers were trying to bring § 87(2)(b) to the floor. § 87(2)(b) was on a couch. The officers brought him to his feet and then § 87(2)(b) and the officers all fell into a glass coffee table, causing § 87(2)(b) to sustain cuts along his elbow. No officer punched or kicked § 87(2)(b).

Once on the floor, § 87(2)(b) was still moving his body around, so Sgt. Taylor removed his darts and “dry” tasered § 87(2)(b). The taser was not effective. The officers then pulled § 87(2)(b)'s hands behind his back and he was handcuffed on the floor. PO Alexis Rodriguez and PO Max Rodriguez were two of the officers directly involved in apprehending § 87(2)(b). Sgt. Taylor could not specify which other officers were involved.

ESU and medical services arrived on scene. § 87(2)(b) was placed in a restraining bag by ESU who carried him out to an ambulance for transport to the hospital. Later, Sgt. Taylor learned that in addition to the cuts to § 87(2)(b) he had also suffered a broken wrist. Sgt. Taylor did not use any force on § 87(2)(b) besides the taser.

Subject Officer: PO MAX RODRIGUEZ

- *Officer Rodriguez is a § 87(2)(b)*
- *On January 3, 2011, Officer Rodriguez was working in uniform from 11:15pm until 7:50am with Officer Alexis Rodriguez doing patrol in a marked vehicle.*

Memobook

Officer Max Rodriguez's memobook states, “0131: 1 under from § 87(2)(b). At T/P/O we were called to a female assaulted, upon arrival male ran into apartment and began to yell from the window erratically, mostly words like, ‘Suck my dick,’ or anything in an insulting manner. We waited until male exited apartment and attempted to arrest him, he struggled flailing his arms making things hard in general to get the cuffs on he staggered back and fell on his coffee table injuring our sergeant. Male kept struggling upon entry of the apt. we noted that he was defecating on the couch, his pants ended up around his ankles upon trying to get the cuffs on him they eventually ended up off him. ESU was called, a taser was used by our sergeant at some point but it didn't work. We were concerned that he was a combination of intoxication and EDP by the way he was responding. ESU removed him to § 87(2)(b) while I spoke with the female and began arrest processing at the hospital. He continued his erratic behavior well into the afternoon claiming over and over again that because he needed insulin his blood sugar was high” (encl. D 11-14).

Arrest Report

§ 87(2)(b) was charged with assault, resisting arrest, harassment, and disorderly conduct (encl. 15-19). The narrative states, “At T/P/O officers were called to above address for an assault, upon arrival, defendant ran into the apartment and proceeded to yell out of his window in an erratic and incoherent manner. C/V was at location and visibly fearful of entering apartment. C/V states she was hit with a metal vase. Defendant was violently resisting arrest, ESU was called and defendant was removed to § 87(2)(b)

CCRB Statement

PO Max Rodriguez was interviewed at the CCRB on April 5, 2011 (encl. 20-21). On the incident date, PO Max Rodriguez received a report of an abuse/domestic incident at § 87(2)(b). PO Max Rodriguez arrived at the location and spoke with § 87(2)(b) who had two visible black eyes. § 87(2)(b) said that her husband, § 87(2)(b) had assaulted her and that she was afraid to go into her apartment.

PO Max Rodriguez corroborated Sgt. Taylor’s account of how the officers gained access to § 87(2)(b)’s apartment. By the time PO Max Rodriguez got into § 87(2)(b)’s home, § 87(2)(b) was on a futon and officers were struggling with § 87(2)(b). PO Max Rodriguez could not remember how many or which officers were inside the residence. PO Max Rodriguez and PO Alexis Rodriguez approached § 87(2)(b) and attempted to get him off the futon to place him into handcuffs. § 87(2)(b) got up, and his pants were around his ankles and he was swinging his arms around. § 87(2)(b) defecated on the futon, so feces were getting on the officers. § 87(2)(b) then fell into a nearby table. PO Max Rodriguez did not know how this occurred, but stated that he could have tripped on the pants that were around his ankles. No officers pushed § 87(2)(b) into the table. Even though § 87(2)(b) fell through the table, he still continued to struggle on the floor. Sgt. Taylor was scraped by the coffee table and his ankle was bleeding.

The officers were holding § 87(2)(b) down at that point. PO Max Rodriguez did not know specifically at what point § 87(2)(b) was tasered by Sgt. Taylor but it was after he fell through the table. Eventually, PO Max Rodriguez was able to secure handcuffs on § 87(2)(b) with the aid of another unknown officer. PO Max Rodriguez did not know which other officers were involved in this incident. ESU arrived, placed § 87(2)(b) into a restraining bag, and transported him to the hospital.

Subject Officer: PO ALEXIS RODRIGUEZ

- PO Alexis Rodriguez is a § 87(2)(b)
- On January 3, 2011, PO Rodriguez was working in uniform from 11:15pm until 7:50am with PO Max Rodriguez doing patrol in a marked vehicle.

Memobook

Officer Alexis Rodriguez’s memobook states that at 12:33 AM, there was a “54 – § 87(2)(b).” At 1:30 AM, 1 under; at 1:38 AM, transport to § 87(2)(b) by sector A. At 5:10 AM, 84 @ § 87(2)(b) relieving [illegible]. At 11:05 AM, relieved by PO Mulligan (encl. D22-D23).

CCRB Statement

On April 27, 2011, PO Alexis Rodriguez was interviewed at the CCRB (encl. 24-25). § 87(2)(g)

By the time PO Alexis Rodriguez got into the apartment containing § 87(2)(b) there were officers struggling with § 87(2)(b) on his futon. PO Alexis Rodriguez however did not know which officers were present. § 87(2)(b) was naked. The officers pulled § 87(2)(b) off the couch to get him on the floor and apply handcuffs, but § 87(2)(b)'s pants were around his ankles and he was defecating on the futon. PO Alexis Rodriguez applied one handcuff to § 87(2)(b)'s left wrist while § 87(2)(b) was still on the couch resulting in PO Alexis Rodriguez being covered in feces. When they stood § 87(2)(b) up, the officers tried to take § 87(2)(b) down to the floor, but a coffee table was right next to the futon and § 87(2)(b) and PO Alexis Rodriguez fell to the floor. § 87(2)(b) landed on the coffee table.

On the floor, § 87(2)(b) was still struggling with the officers, so he was tased by Sgt. Taylor. PO Alexis Rodriguez never struck § 87(2)(b) in any manner, but said that other officers were probably striking him due to his resistance. Eventually the officers managed to get handcuffs on § 87(2)(b) and he was taken to an ambulance by ESU.

Witness Officers: PO NICOLE DETRES, PO ALBERT NG, and PO ENOCH THOMAS

- PO Detres is a § 87(2)(b)
- PO Ng is a § 87(2)(b)
- PO Thomas is a § 87(2)(b).
- On January 3, 2011, PO Detres and PO Ng were working together and assigned to a sector patrol. PO Thomas was also assigned to a sector patrol with PO Zeil. PO Detres, PO Ng, and PO Thomas were dressed in uniform and worked from 11:15 p.m. on January 2, 2011 until 7:50 a.m. on January 3, 2011.

CCRB Statement

PO Detres, PO Ng, and PO Enoch were interviewed at the CCRB on August 23, 2011 (encl. D 28-30, 34-37). § 87(2)(g)

On the incident date, PO Detres, PO Ng, and PO Enoch responded to the location to back-up PO Max Rodriguez and PO Alexis Rodriguez. Sgt. Taylor and PO Plevritis were also present on the scene. § 87(2)(b) had assaulted § 87(2)(b) and when the officers attempted to speak with him, he fled into his residence.

At one point, § 87(2)(b) exited his residence, so the officers tried to arrest him, but he fled back inside his residence. The officers followed and tried to handcuff him. § 87(2)(b) was wearing a track jacket and running pants. PO Ng grabbed § 87(2)(b) by the jacket, but § 87(2)(b) pulled away and the jacket ripped off. § 87(2)(b) fought with the officers by throwing his body weight around and swinging his hands in the air.

§ 87(2)(b) sat on a sofa with his pants off and started to defecate on the sofa. None of the officers could explain how § 87(2)(b)'s pants came off. The officers were trying to pull him off the sofa to handcuff him, because they could not get behind him due to the feces on the couch. The officers were able to pull him off of the sofa, into a standing position, but § 87(2)(b) continued to fight the officers in a small space between the couch and a glass table. PO Ng, when seeing the feces on the couch and § 87(2)(b) backed away from § 87(2)(b) so he would not get any feces on himself. § 87(2)(b) then fell forward onto a coffee table in the middle of the living room. The officers did not know what specific action caused § 87(2)(b) to fall into the table, but denied that he was pushed by any officer.

§ 87(2)(b) continued to fight while he was on the floor and was tased by Sgt. Taylor, which had no effect. Sgt. Taylor did not kick § 87(2)(b) was eventually handcuffed and taken from the location by ESU.

Medical Records

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (Enc. E 1-53). The records indicate that § 87(2)(b) was intoxicated and was agitated. § 87(2)(b) had a 5 cm laceration to his left elbow and had a right galeazzi fracture on his radial shaft. § 87(2)(b) denied any other injuries.

NYPD Document **SPRINT**

The SPRINT report (encl. F 3-7) states that at 12:32am, § 87(2)(b) reported this incident to 911 and stated she had no injuries. She was waiting in the lobby for PD. At 1:12am, ESU was requested at the location to bag an EDP. At 1:53am, § 87(2)(b) was en route to § 87(2)(b)

Arrest for Incident and Disposition

- On May 25, 2011, § 87(2)(b) pled guilty to assault in the second degree. The case has been adjourned until sentencing on § 87(2)(b). A temporary restraining order has been issued (Enc. F 15-21).

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on January 13, 2011, claiming false arrest, unlawful search and seizure, assault and battery, and seeking an unknown sum of money as redress. 50H hearings were scheduled on § 87(2)(b) but were cancelled and have not been rescheduled. As of August 22, 2011, the claim against the City of New York is still pending (encl. 1-3).

Status of IAB Investigation

- This case was investigated under IAB log number 11-00317 by Sgt. Jennifer Joyce of Internal Affairs Group 54. The case was closed as Information and Intelligence § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (encl. F 1-2).

Civilians Criminal History

- As of August 25, 2011, the Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl. F 15-21).
- § 87(2)(b)
- § 87(2)(b)

Civilians CCRB History

- § 87(2)(b)

Subject Officers CCRB History

- Sgt. Taylor has been a member of the service for twelve years and there are no substantiated CCRB allegations against him (encl. B 3).
- PO Alexis Rodriguez has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. B 2).
- PO Max Rodriguez has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. B 1).

Conclusion

Identification of Subject Officers

PO Alexis Rodriguez, PO Max Rodriguez, and Sgt. Taylor acknowledged interacting with § 87(2)(b) specifically, and accurately, described PO Alexis Rodriguez and PO Max Rodriguez as the subject officers. These officers also admitted that they were directly involved in apprehending § 87(2)(b). Therefore, Allegation A is pleaded against PO Max Rodriguez, Allegation B is pleaded against PO Alexis Rodriguez, and Allegations C and D are pleaded against Sgt. Taylor.

Investigative Findings and Recommendations

Allegation Not Pleaded

The officers did not appear to enter § 87(2)(b)'s apartment in any kind of premeditated manner. It was not until § 87(2)(b) came outside that they attempted to arrest him, and it just so happened that the struggle moved into § 87(2)(b)'s apartment. There was clearly no plan to enter § 87(2)(b)'s apartment—they were simply trying to lure him outside. As a result, no entry allegation will be pleaded in this case. Also, Sgt. Taylor mentioned that batons were used to subdue § 87(2)(b). § 87(2)(b) never made this allegation, so it is not pleaded.

Allegation A) PO Max Rodriguez used physical force against § 87(2)(b)

§ 87(2)(b) sustained a fractured right arm during the incident and alleged that this was caused when PO Max Rodriguez pulled his arm behind his back. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) denied assaulting § 87(2)(b) prior to the incident and denied any knowledge as to why the officers were at the location. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also claimed during the CCRB interview that he was repeatedly kicked in the head by EMTs on the way to the hospital. § 87(2)(b)'s medical records and arrest photograph show no evidence of injury. § 87(2)(g)

PO Max Rodriguez admitted that he was the officer that handcuffed § 87(2)(b) but stated that § 87(2)(b) was violently resisting arrest. § 87(2)(g)

Patrol Guide Procedure 203-11 states that an officer may use force in order to effect an arrest (encl. A 1-2). § 87(2)(g)

Allegation B) PO Alexis Rodriguez used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Alexis Rodriguez threw him through a glass table. It is undisputed in this case that § 87(2)(b) ultimately ended up landing on the glass table, however the issue here is whether the officers threw him into the table or whether § 87(2)(b) fell through the table as a result of his violent resistance.

§ 87(2)(g) The officers stated that § 87(2)(b) who was out of his clothes, was on the couch in his residence and the officers were trying to handcuff him in that position. § 87(2)(b) was however defecating on himself and the couch. PO Alexis Rodriguez explained that the officers stood § 87(2)(b) up and he continued to fight, so § 87(2)(b) and PO Alexis Rodriguez fell to the floor. § 87(2)(b) however ended up falling through the glass table.

None of the officers that were interviewed were able to provide a specific reason for why this happened. § 87(2)(g)

Allegation C) Force: Sgt. Joseph Taylor used physical force against § 87(2)(b)

§ 87(2)(b) alleged that he sustained three to four broken right ribs as a result of being kicked by Sgt. Taylor. Sgt. Taylor denied this allegation, stating that the only force that he used against § 87(2)(b) was in tasing him.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D) Force: Sgt. Joseph Taylor used a taser against § 87(2)(b)

Sgt. Taylor explained that he dry-stunned § 87(2)(b) with his taser because § 87(2)(b) was violently resisting and appeared to be emotionally disturbed person. Patrol Guide Procedure 216-05 states that an authorized member of service may use a non-lethal conducted energy device to assist in restraining an emotionally disturbed person (encl. A 3-7). § 87(2)(g)

Team: ____3____

Investigator: _____ Inv. Eric Black _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date